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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,402	07/22/2002	Robert R. Holcomb	A96158US (32831/11US)	5120

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EXAMINER

MANOHARAN, VIRGINIA

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,402

Applicant(s)

HOLCOMB, ROBERT R.

Examiner

Virginia Manoharan

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

The references cited in the Search Report filed March 18, 2002 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required. The PCT abstract does not suffice.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors e.g., typographical, grammar, idiomatic, syntax and etc. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. There are no proper antecedent basis for supports in the claims for the following recitations:

1. "incoming water to the system" (not initially recited in the base claim), claim 7, line 3;
2. "the process water", claim 8, line 1;



3. "the incoming water line", claim 12, line 2;
4. "the counter current exchanger", claim 15, line 2;
5. "the "preheat heat exchanger", claim 18, lines 3-4;
6. "the feedwater preheat heat exchanger", claim 19, line 4;
7. "the system" and "the computer processor", claim 20, line 3 and line 4 respectively; and
8. "the unit", claim 21, line 1.

b. It is unclear what "water" is being referred to in claim 3, line 2, i.e., whether the degassed water, the superheated degassed water or the condensed water that is being pumped through the mineral column and carbon column? See claim 1.

c. The used of quotation marks such as : "preheat"; "high side"; and "off taste" in the claims is improper. See e.g., claims 11-12 and 18-19.

d. The parenthetical statement in a claim is improper as every feature recited in a claim becomes a part of the overall subject matter. By placing terms in parenthesis renders the claims ambiguous as to whether or not these phrases should be disregarded. See e.g., the recitation in claim 18 of (or gas heated or other energy source). Also what constitute the "other energy source" within the context of the claimed invention.

e. In claim 9, "the water" should be – the vaporized water – or the water vapor – since "water" would presupposed that it is already in the condensed state. See also claims 10 and 13.

f. It is unclear whether the claimed "a system" in claim 16 is the same or different from a system initially recited in the base claim 13.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over World '419 in view of Arbogast.

The WORLD '419 discloses in page 7, lines 1-38, the method and means for heating degassed water, for injecting the degassed water into an evaporator, and for condensing and cooling the water as claimed. To inject the heated degassed water into a vacuum chamber in order to superheat the water and to allow the superheated water to vaporize in an explosive manner (flash evaporate) as claimed is a known expediency in the art as taught by Arbogast. It would have been obvious to one of ordinary skill in the art to incorporate Arbogast's teaching above to the process and means of World'419 inasmuch as Arbogast suggests in the abstract that the superheating process destroys

bacterial impurities, and the flashing removes and vents entrapped gaseous contaminants.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over World '419 in view of Arbogast as applied to claims 1-19 and 21 above, and further in view of Davis et al.

To further provide a backwash system in the process and means of World '419, modified by Arbogast, that is timed and sequenced by a computer processor would have been obvious to one of ordinary skill in the art inasmuch as Davis et al teaches in column 70, lines 32-51, that it is known to control a backwash system by a computer.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Pottharst, Jr. discloses a multi-effect flash evaporator.
- b. Hayashi et al discloses a distilling apparatus.
- c. Topper, Masero and Wang et al all disclose a distillation water apparatus.
- d. Wijn discloses distillation process under vacuum.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 703-308-3844. The examiner can normally be reached on Tuesday-Friday from 7:30 am to 6:00 pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9462 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

V. Manoharan/mn  
April 11, 2003

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4/11/03